



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: East West Research, Inc.

File: B-238551

Date: May 16, 1990

Richard Snyder, for the protester.
Philip F. Eckert, Jr., Esq., Defense Logistics Agency, for the agency.
Anne B. Perry, Esq., and John F. Mitchell, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency is not required to use federal specifications included in General Services Administration Index of Federal Specifications, Standards and Commercial Item Descriptions where procurement is conducted under Federal Acquisition Regulation small purchase procedures, which is specifically excepted from this requirement.
2. Objection to agency's use of small purchase procedures and allegations that agency may have misdescribed its minimum needs and provided inadequate packaging instructions are dismissed as untimely where not raised until protester's comments on the agency report, well after the due date for receipt of quotations.

DECISION

East West Research, Inc., protests the terms of request for quotations (RFQ) No. DLA400-90-Q-N855, issued by the Defense General Supply Center, Defense Logistics Agency, for 550 abrasive wheels. East West contends that in its solicitation the agency improperly described the item by American National Standards Institute (ANSI) standards rather than by a federal specification.

We deny the protest.

The RFQ was issued, pursuant to Federal Acquisition Regulation (FAR) Part 13 small purchase procedures, on January 23, 1990, with a closing date for receipt of quotations of February 13. The solicitation called for

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abrasive wheels, identified by national stock number (NSN) 3460-00-187-8680, meeting certain specified dimensional and physical requirements and complying with three standards promulgated by ANSI. ANSI standards are included in the Department of Defense Index of Specifications and Standards (DODISS).

In its initial protest, East West contended that for this procurement the agency is required by FAR § 10.006(a) (FAC 84-53) to use the specifications and standards listed in the General Services Administration's (GSA) Index of Federal Specifications, Standards and Commercial Item Descriptions, specifically, Federal Specification GGG-W-290C dated April 5, 1985. Although the protester has expressed no difficulty in understanding the ANSI standards used in the RFQ or in supplying wheels meeting them, the protester generally contends that the use of Federal Specification GGG-W-290C will express the agency's actual minimum needs in a manner that will foster greater competition.

FAR § 10.006(a) provides in pertinent part:

"(a) Mandatory specifications and standards.

(1) Unless otherwise authorized by law or approved under 10.007(a) below, specifications and standards listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions are mandatory for use by all agencies requiring supplies or services covered by such specifications and standards, except when the acquisition is -

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(ii) Under the small purchase limitation at 13.000;1/

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(2) Military specifications and standards are mandatory for use by the Department of Defense (DOD), as are voluntary standards adopted by DOD and listed in the DODISS, except when any of the exceptions in (a)(1) above apply."

1/ The limitation for small purchase procedures under FAR Part 13 is \$25,000.

DLA states that since this procurement will not exceed \$25,000, and is being conducted under small purchase procedures, it is not required to use the specifications and standards in the GSA Index or in the DODISS, but that, nonetheless, it voluntarily chose to use the ANSI standards which are included in the DODISS. Further, the agency notes that the federal specification cited by the protester does not meet its minimum needs with respect to abrasive grain size, grade (hardness) and type of bond.^{2/}

Initially, we note that the Competition in Contracting Act of 1984, 10 U.S.C. § 2304(g) (1988), exempts small purchases from the requirement to use competitive procedures established in the Act. Agencies are required by that provision to "promote competition to the maximum extent practicable" in using small purchase procedures. The implementing regulations reflect a determination that the use of GSA and military specifications and standards is generally unnecessary or perhaps even counterproductive to promoting competition in small purchases. As quoted above, FAR § 10.006(a) specifically provides that such specifications and standards are not required in making small purchases.

In view thereof, we see nothing legally objectionable to DLA's description of the item by listing in the RFQ itself the required physical characteristics of the wheels and by referring to nationally-recognized, published industry standards. Indeed, we note that with reference to another purchase of different abrasive wheels which had been identified by manufacturer's part number, this same protester had urged that the items be bought under the identical ANSI standards that DLA in fact used here. See East West Research, Inc., B-238177, et al., Apr. 18, 1990, 90-1 CPD ¶ ____. In addition, since the ANSI standards used by DLA are encompassed in the DODISS, and since the FAR does not contain a preference for specifications in the GSA Index or the DODISS, it could be said that DLA is in compliance with FAR § 10.006(a).


In its comments on the agency report, the protester has raised other issues concerning the propriety of the

^{2/} In its comments on the agency report, the protester appears to concede that the federal specification does not cover the abrasive grain size and hardness requirements of this procurement, but suggests that DLA should have authorized deviations from the federal specification. We need not address this issue in view of our conclusion that the contracting agency was not required to use a federal specification in the first instance.

solicitation, such as whether DLA is using the small purchase procedures merely as a means of circumventing the FAR requirements concerning the use of specifications, whether the agency has misdescribed its minimum needs, and whether the use of ANSI standards results in incomplete packaging instructions. These allegations are untimely. Since they concern improprieties apparent from the face of the solicitation, they should have been filed prior to the due date for receipt of quotations. 4 C.F.R. § 21.2(a)(1) (1989).

In any event, the regulations specify that agencies are to use small purchases procedures for the acquisition of supplies or services not exceeding \$25,000 "to the maximum extent practicable." FAR § 13.103 (FAC 84-26). There is nothing in the record to indicate that the \$25,000 limit will be exceeded or that large requirements have been divided into smaller ones so that the small procedures can be used. Thus, we see no legal basis for the view that the agency is acting improperly here by using small purchase procedures.

The protest is denied.


James F. Hinchman
General Counsel